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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,834	12/29/2004	Lance Fuller Manlove	TPP 31446A	4351
77176	7590	09/29/2008		
Novak, Druce & Quigg LLP 1300 I Street, N.W. Suite 1000, West Tower WASHINGTON, DC 20005			EXAMINER NEWHOUSE, NATHAN JEFFREY	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 09/29/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,834

Applicant(s)

MANLOVE, LANCE FULLER

Examiner

NOLAN SANDBERG

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 and 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/27/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-19 and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 15-19 and 21-23 recite the limitation "flexible fabric". There is insufficient antecedent basis for this limitation in the claim. For the purposes of this examination, it is assumed that the flexible fabric is the outer fabric restraint of claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1, 3, 6-12, 15-16, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nattrass (US Patent No. 6,056,440) in view of Gatewood, Jr. (US Patent No. 5,673,509).

Regarding claims 1 and 24, it is noted that Nattrass discloses a flexible material transfer device for transferring a load container therein comprising a flexible inner liner (100 in Fig. 3), having a closed end (top end 132 can be closed by tying inlet shut) and an open end (144), a sanitary fitting (144) affixed to the open end of the flexible inner liner, an outer fabric restraint surrounding and integrated to the inner liner in a manner preventing the inner liner from collapsing (inner liner sewn to outer bag in Fig. 4). Nattrass does not disclose a window. However, Gatewood, Jr. discloses a window (22 in Fig. 1) sewn (34) or thermally sealed to the outer fabric restraint for viewing the load contained in the flexible inner liner. Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Nattrass with the window of Gatewood, Jr. in order to see the contents of the bag.

Regarding claim 3, it is noted that Fig. 4 of Nattrass discloses wherein the inner liner is formed from a plurality of patterns (100, 130, 132), thermally welded or sewn together (170).

Regarding claims 6-9, it is noted that Nattrass discloses wherein the inner liner is formed from polyethylene (column 3, line 53).

Regarding claims 10-12, it is noted that Nattrass discloses wherein the inner liner comprises at least one barrier layer to protect the contact of the load with the environment wherein the at least one barrier layer is impervious to the load (column 4, line 43).

Regarding claims 15-16, it is noted that Nattrass discloses wherein the flexible fabric is formed from polypropylene (column 3, line 54).

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nattrass (US Patent No. 6,056,440) and Gatewood, Jr. (US Patent No. 5,673,509) as applied to claim 1 above, and further in view of Terazawa et al. (US Patent No. 6,549,744 B2).

Regarding claim 4, it is noted that Nattrass and Gatewood, Jr. disclose all the claimed limitations except wherein the sanitary fitting comprises a sealing element (123 in Fig. 18) for forming an airtight seal with a filling device. However, Terazawa et al. disclose wherein the sanitary fitting comprises a sealing element (123 in Fig. 18) for forming an airtight seal with a filling device (Fig. 15, Fig. 19) used to deliver material to be transferred, such that the material is substantially prevented from escaping. Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Nattrass and Gatewood, Jr. with the sealing element of Terazawa et al. in order to form a more secure seal.

Regarding claim 5, it is noted that Terazawa et al. disclose wherein the sealing element comprises at least one selected from the group consisting of an O-ring and a locking member (locking member 121, 125 in Fig. 19).

8. Claims 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nattrass (US Patent No. 6,056,440) and Gatewood, Jr. (US Patent No. 5,673,509) as applied to claim 1 above, and further in view of Trepte et al. (US Patent No. 5,458,419).

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Regarding claim 17, it is noted that Nattrass and Gatewood, Jr. disclose all the claimed limitations except wherein the flexible fabric is conductive. However, Trepte et al. disclose wherein the flexible fabric is conductive (Abstract). Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Nattrass and Gatewood, Jr. with the conductive flexible fabric of Trepte et al. in order to prevent brush discharges (Trepte et al., column 2, lines 5-8).

Regarding claims 18 and 19, it is noted that Trepte et al. disclose wherein the flexible fabric comprises at least one conductive material selected from the group consisting of powder, flakes, fibers (8 in Fig. 4), wires, spokes, and non-metallic materials consisting of carbon black and graphite particles and threads.

Regarding claims 20-23, it is noted that Trepte et al. disclose a grounding loop integrated with the lifting loop (column 3, lines 60-63).

Response to Arguments

9. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOLAN SANDBERG whose telephone number is (571)270-3537. The examiner can normally be reached on Monday to Thursday from 7:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/N. S./

Examiner, Art Unit 3782

7/11/08

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782